

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

v.

FAIRFIELD SUISUN UNIFIED SCHOOL
DISTRICT,

OAH CASE NO. 2013030894

FAIRFIELD SUISUN UNIFIED SCHOOL
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NO. 2013050758

ORDER GRANTING MOTION TO
CONSOLIDATE CASES AND SETTING
CONSOLIDATED DATES

On March 22, 2013, Parents on behalf of Student (Student) filed a request for a due process hearing (complaint) with the Office of Administrative Hearings (OAH), bearing OAH Case Number 2013030894 (First Case), naming the Fairfield-Suisun Unified School District (District). On May 15, 2013, OAH granted Student's motion to file an amended complaint and all statutory timelines started over. The First Case is set for a prehearing conference (PHC) on July 1, 2013, and a due process hearing to begin on July 9, 2013. In addition, a mediation is set for June 19, 2013.

On May 20, 2013, District filed a complaint bearing OAH Case Number 2013050758 (Second Case), naming Student. On May 31, 2013, District filed a Motion to Consolidate the First Case with the Second Case.

On June 3, 2013, a telephonic PHC for the Second Case was held before the undersigned Administrative Law Judge (ALJ). During the PHC, the ALJ granted Student's motion to continue the Second Case based on a scheduling conflict. This case is now set for a PHC on July 15, 2013, and a hearing to begin on July 30, 2013.

During the PHC, the ALJ deferred ruling on District's motion for consolidation to permit Student to file a written reply by June 5, 2013. On June 5, 2013, Student filed a Stipulation to Consolidation of Cases.

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, the First Case and Second Case involve common questions of law or fact because District's issue in the Second Case, as to the appropriateness of its mental health assessment of Student, relates directly to one of Student's amended issues in the First Case, as to the appropriateness of District's provision of emotional, mental health and counseling services to Student. Student does not oppose the motion. In addition, consolidation furthers the interests of judicial economy because many of the witnesses and documents regarding these intertwined issues will be the same. Accordingly, consolidation is granted. The statutory timelines applicable to these consolidated matters will be controlled by the First Case, Student's OAH Case Number 2013030894.

Continuance

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f), and 56505, subd. (f)(1)(C)(3).)

Since the motion to consolidate the cases is granted, the consolidated matters will proceed to hearing on the same hearing dates, thus requiring a continuance of one of the cases. Neither party addressed the length of the consolidated hearing in their arguments. During the PHC in the Second Case, District indicated that the hearing date of July 9, 2013, scheduled in the First Case, was problematic due to a scheduling conflict. Both parties agreed to the hearing dates for the Second Case and confirmed their availability. Accordingly, the dates set in the First Case are vacated, and the First Case is continued so that the matters will be heard on the dates set for the Second Case, as ordered below.

ORDER

1. District's Motion to Consolidate is granted.
2. The PHC and due process hearing dates previously set in OAH Case Number 2013030894 (First Case) are vacated and the First Case is continued. The mediation date of June 19, 2013, is not vacated. The parties may advise OAH if they wish to use or cancel the mediation date for the consolidated matters.

3. The consolidated cases shall proceed on the dates scheduled in OAH Case Number 2013050758 (Second Case) as follows:

Prehearing Conference: July 15, 2013, at 10:00 a.m.

Hearing:¹ July 30, 2013, at 9:30 a.m.,
July 31, 2013, at 9:00 a.m., and continuing
thereafter day to day, Monday through Thursday
as needed in the discretion of the ALJ.

4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the effective filing date of May 15, 2013, for Student's amended complaint in OAH Case Number 2013030894 (First Case).

Dated: June 10, 2013

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

¹ The parties shall be prepared at the PHC to discuss whether additional time may be necessary for the hearing due to this consolidation.